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1. A request for continued examination under 37 CFR 1.114 was filed in this application after appeal to the Board of Patent Appeals and Interferences, but prior to a decision on the appeal. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submissions filed on February 7, 2008; May 14, 2008; and June 16, 2008; have been entered.

2. EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Originally-numbered claims 42, 44, 46, and 48 (re-numbered claims 7, 9, 11, and 13, respectively) have been amended as follows:

42. (Currently Amended) A medicament according to claim 36 wherein the diagnostically active substance contains at ~~least~~ least one substance selected from the group consisting of radionuclides, one or a plurality of ligands containing radionuclides, positron emitters, NMR contrast media, ~~and~~ fluorescing compound(s), and contrast media functional in the near IR region.

44. (Currently Amended) A medicament according to claim 36 wherein said spacer molecule is selected from the group consisting of substituted or ~~unsubstituted~~ unsubstituted branched-chain or

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straight-chain aliphatic alkyl groups having 1 to 12 carbon atoms, substituted or unsubstituted aryl groups and aliphatic carbon rings having 3 to 12 carbon atoms.

46. (Currently Amended) A method according to claim 45 wherein said reducing agent is selected from ~~[[a]]~~ the group consisting of dithiothreitol, dithioerythritol ~~or~~ and mercaptoethanol.

48. (Currently Amended) A medicament according to claim 36 for the treatment of cancer, autoimmune disorders, acute or chronically inflammatory diseases, ~~and~~ or diseases that are caused by ~~infections~~ infectious agents ~~[[,]]~~ selected from the group consisting of viruses and microorganisms.

Authorization for this examiner's amendment was given in a telephone interview with Attorney Arthur S. Morgenstern on June 27, 2008.

3. The following is an examiner's statement of reasons for allowance:

Applicant's elected species has been examined and found to be novel and unobvious over the prior art of record or any combination thereof. Accordingly, search and examination has been extended to the entire claimed genus and the species encompassed thereby. Claims 38 and 42 have been rejoined with the elected invention. Claims 36-48, 51, and 52 have been examined on the merits in their entirety.

The declaration by Kratz under 37 CFR 1.132 filed June 16, 2008 shows that the Kratz et al article (J. Med. Chem., Vol. 43, pages 1253-1256) is not "by others" and is therefore unavailable as prior art against the instant claims under 35 U.S.C. 102(a). Accordingly, the prior art rejections based upon the Kratz et al article, set forth in sections 5 and 6 of the final Office action mailed November 14, 2007, are withdrawn.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey E. Russel at telephone number (571) 272-0969. The examiner can normally be reached on Monday-Thursday from 8:00 A.M. to 5:30 P.M. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Cecilia Tsang can be reached at (571) 272-0562. The fax number for formal communications to be entered into the record is (571) 273-8300; for informal communications such as proposed amendments, the fax number (571) 273-0969 can be used. The telephone number for the Technology Center 1600 receptionist is (571) 272-1600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Jeffrey E. Russel/  
Primary Examiner, Art Unit 1654

JRussel  
July 2, 2008